



7020-02

**INTERNATIONAL TRADE COMMISSION**

**INVESTIGATION NO. 337-TA-755**

**CERTAIN STARTER MOTORS AND ALTERNATORS**

**NOTICE OF ISSUANCE OF A LIMITED EXCLUSION ORDER AND A CEASE AND DESIST ORDER; TERMINATION OF INVESTIGATION**

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has terminated the above-captioned investigation under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and has issued a limited exclusion order and a cease and desist order against respondent American Automotive Parts, Inc. ("AAP") of Niles, Illinois, which was previously found in default in the above-captioned investigation.

**FOR FURTHER INFORMATION CONTACT:** Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 708-2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission instituted this investigation on January 19, 2011, based on a complaint filed by Remy International, Inc. and Remy Technologies, L.L.C. (collectively, “Remy”), both of Pendleton, Indiana. 76 *Fed. Reg.* 3158 (Jan. 19, 2011). The complaint alleged violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337), in the importation into the United States, the sale for importation, and the sale within the United States of certain starter motors and alternators by reason of infringement of certain claims of U.S. Patent Nos. 5,105,114 (“the ‘114 patent”); 5,252,878; 5,268,605 (“the ‘605 patent”); 5,295,404; 5,307,700; 5,315,195 (“the ‘195 patent”); and 5,453,648 (“the ‘648 patent”). The notice of investigation, as amended, named ten respondents including AAP. The complaint and notice of investigation were served on AAP on January 13, 2011. AAP failed to respond to the complaint and notice of investigation. The ‘114 patent was terminated from the investigation based on partial withdrawal by Remy, and all other respondents have been terminated from the investigation based on either a consent order or a settlement agreement. Claims 1 and 4 of the ‘605 patent, claims 1-6 of the ‘195 patent, and claims 1, 5, and 10 of the ‘648 patent were asserted against AAP.

The presiding administrative law judge (“ALJ”) issued an initial determination (“ID”) on December 22, 2011, finding AAP in default, pursuant to 19 C.F.R. §§ 210.13 and 210.16, because respondent did not respond to the complaint and notice of investigation, or to the ALJ’s December 13, 2011 order to show cause. On January 14, 2012, the Commission issued notice of its determination not to review the ID finding AAP in default.

On February 9, 2012, the Commission issued a Notice that requested briefing from interested parties on remedy, the public interest, and bonding with respect to respondent AAP found in default. 77 *Fed. Reg.* 8898-00 (Feb. 15, 2012).

Both Remy and the Commission investigative attorney (“IA”) submitted briefing on remedy, the public interest, and bonding along with proposed orders on March 2, 2012. The IA also submitted a reply brief on March 9, 2012, containing revised orders.

The Commission found that the statutory requirements of section 337(g)(1)(A)-(E) (19 U.S.C. § 1337(g)(1)(A)-(E)) were met with respect to the defaulting respondent. Accordingly, pursuant to section 337(g)(1) (19 U.S.C. § 1337(g)(1)) and Commission rule 210.16(c) (19 C.F.R. § 210.16(c)), the Commission presumed the facts alleged in the complaint to be true.

The Commission has determined that the appropriate form of relief is the following: (1) a limited exclusion order prohibiting the unlicensed entry of alternators that infringe one or more of claims 1 and 4 of the ‘605 patent, claims 1-6 of the ‘195 patent, or claims 1, 5, and 10 of the ‘648 patent, which are manufactured abroad by or on behalf of, or are imported by or on behalf of, AAP, or any of its affiliated companies, parents, subsidiaries, licensees, contractors, or other related business entities, or its successors or assigns; and (2) a cease and desist order prohibiting AAP from conducting any of the following activities in the United States: importing, selling, marketing, advertising, distributing, offering for sale, transferring (except for exportation), and soliciting U.S. agents or distributors for alternators that infringe one or more of claims 1 and 4 of the ‘605 patent, claims 1-6 of the ‘195 patent, or claims 1, 5, and 10 of the ‘648 patent.

The Commission has further determined that the public interest factors enumerated in section 337(g)(1) (19 U.S.C. § 1337(g)(1)) do not preclude issuance of the limited exclusion order or the cease and desist order. Finally, the Commission has determined that a bond of 100 percent of the entered value of the covered products is required to permit temporary importation during the period of Presidential review (19 U.S.C. § 1337(j)). The Commission’s orders were

delivered to the President and to the United States Trade Representative on the day of their issuance.

The Commission has terminated this investigation. The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in sections 210.16(c) and 210.41 of the Commission's Rules of Practice and Procedure (19 C.F.R. §§ 210.16(c) and 210.41).

By order of the Commission.

James R. Holbein  
Secretary to the Commission

Issued: March 30, 2012

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